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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of Section 73.202(b)	)	MB Docket No. 02-124
Table of Allotments,	)	
FM Broadcast Stations.	)	RM-10446
(Amboy, CA)	)	

To: Assistant Chief, Audio Division

**COMMENTS OF KHWY, INC.**

KHWY, Inc. ("KHWY"), by its attorneys, hereby submits comments in favor of the proposal detailed in the Commission's Notice in the above-captioned proceeding. 1/ In response to a petition for rule making submitted by KHWY (the "Petition"), the Notice proposes to add an allotment for Channel 237A at Amboy, California to the Commission's Table of Allotments for FM Broadcast Stations. The proposed allotment will:

- provide the first radio service to a "white area" of 3,680 square kilometers, including significant stretches of heavily traveled Interstate 40 and historic Route 66;
- provide the second radio service to a "gray area" of 1,239 square kilometers, including additional miles of Interstate 40 and Route 66; and
- provide the first local transmission (and reception) service to the historic community of Amboy, California.

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1/ *Amboy, California*, Notice of Proposed Rule Making, MB Docket No. 02-124 (released May 24, 2002) (the "Notice").

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Accordingly, because the proposed allotment of Channel 237A at Amboy fulfills each of the Commission's three most critical allotment priorities, the proposed allotment advances the public interest and should be adopted without delay.

In the Petition, which KHWY hereby incorporates in its entirety, KHWY detailed the many reasons for the Commission to add an FM allotment for the community of Amboy. KHWY also demonstrated that Amboy, which has its own post office, zip code and businesses, was a community for purposes of the Commission's allotment priorities.

KHWY notes that the only other party – REC Networks ("REC") – currently to have submitted comments with regard to this proposal also "urges the Commission to grant Channel 237A to Amboy, California." 2/ In its comments, REC emphasizes that the residents of Amboy and the thousands of motorists that daily travel on nearby Interstate 40 are not within any radio station's projected service area. REC notes that the Amboy proposal is distinguishable from other cases in which the Commission has been reluctant to grant a new allotment to a small community near a larger city, as Amboy lies within a large and *bona fide* white area. Finally, it avers that, based on the personal experience of the owners of REC, the proposed Amboy allotment would be in the public interest.

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2/ See Comments of REC Networks at 3 (filed on June 7, 2002).

The REC Comments confirm that the Amboy allotment should be adopted. The proposed allotment fulfills the Commission's three most important allotment priorities: 3/

- it eliminates a huge white area by providing the first aural reception service to 3,680 square kilometers, including more than 10 kilometers of Interstate 40 and more than 25 kilometers of Route 66;
- it eliminates a substantial gray area by providing the first aural reception service to 1,239 square kilometers, including several additional kilometers of Interstate 40 and Route 66; and
- it provides a first local transmission service (and first radio service of any kind) to the community of Amboy, California.

As noted in the Petition, the Commission has properly recognized the importance of providing local radio service to residents and motorists who depend on such local sources for emergency news, traffic and weather information, as well as other programming. 4/ Accordingly, there is no question that the proposed Amboy allotment would advance the public interest.

Attached to these comments is a statement from KHWY further affirming that it will apply for the allotment if added as proposed. The Technical Statement that was submitted as part of the Petition demonstrates that the proposal is consistent with the Commission's technical rules. Accordingly, the

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3/ See Petition at 3-4 (citing *Thermopolis and Story, Wyoming*, 16 FCC Rcd 13066, 13069 (2001)).

4/ See, e.g., Petition at 4 (citing *Yermo and Mountain Pass, California*, Report & Order and Memorandum Opinion & Order, 45 RR 2d 58, 60-61 (Broadcast Bureau, 1979)).

Commission should adopt the proposed allotment of Channel 237A at Amboy, which will provide the first aural reception service to thousands of motorists traveling on Interstate 40 and historic Route 66 and the first aural reception and local transmission service to the community of Amboy.

Respectfully submitted,

**HOGAN & HARTSON L.L.P.**

By:   
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Marissa G. Repp  
F. William LeBeau

555 Thirteenth Street, N.W.  
Washington, DC 20004-1109  
202/637-5600

Attorneys for KHWY, Inc.

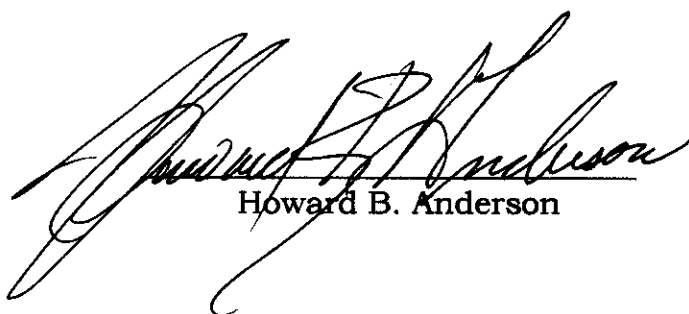
July 15, 2002

### **DECLARATION**

I, Howard B. Anderson, declare as follows:

1. I am President of KHWY, Inc. ("KHWY").
2. KHWY intends to apply for a construction permit for Channel 237A at Amboy, California upon adoption of the Notice of Proposed Rule Making in this proceeding.
3. If awarded the construction permit for Channel 237A at Amboy, California, KHWY promptly will construct and operate such facilities.

I hereby declare under penalty of perjury that the statements made in this declaration are true and accurate to the best of my knowledge, information and belief.



Howard B. Anderson

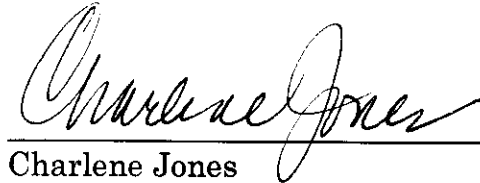
July 12, 2002

## CERTIFICATE OF SERVICE

I, Charlene Jones, hereby certify that on this 15th day of July, 2002, a copy of the foregoing Comments was sent by first-class mail, postage prepaid, to:

John A. Karousos, Assistant Chief \*  
Audio Division  
Federal Communications Commission  
445 – 12<sup>th</sup> Street, S.W.  
Room 3A320  
Washington, DC 20554

Deborah A. Dupont  
Audio Division  
Federal Communications Commission  
445 – 12<sup>th</sup> Street, S.W.  
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Charlene Jones

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**M E M O**

July 15, 2002

**TO:** John A. Karousos, Assistant Chief  
Audio Division  
Federal Communications Commission  
445 -12th Street, SW  
Room 3-A320  
Washington, DC 20554

**FROM:** Bill LeBeau

- ☐ For your information
- ☐ As you requested
- ☐ For your review and comment
- ☐ For your files
- ☒ Other

HOGAN & HARTSON L.L.P.  
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